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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,763	10/26/2001	Ronald P. Taylor	9426-059	4486
20583	7590	03/22/2007	EXAMINER	
JONES DAY			VANDERVEGT, FRANCOIS P	
222 EAST 41ST ST			ART UNIT	
NEW YORK, NY 10017			PAPER NUMBER	
			1644	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/22/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/016,763	Applicant(s) TAYLOR ET AL.	
	Examiner F. Pierre VanderVegt	Art Unit 1644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6,8-17,20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) 6,8-17,20 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

This application is a continuation of U.S. Application Serial Number 08/202,572.

Claims 2, 5, 7, and 18-19 have been canceled.

New claims 20 and 21 have been added.

Claims 1, 3, 4, 6, 8-17 and 20-21 are currently pending.

Election/Restrictions

1. **Claims 6, 8-17 and 19 stand withdrawn** from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on April 7, 2006.

Newly added claim 20 is dependent on and reads on non-elected claim 6. Newly added claim 21 is dependent on and reads on non-elected claim 14. **Claims 20 and 21 do not read upon the elected invention and are therefore also withdrawn.**

Accordingly, **claims 1, 3 and 4 are the subject of examination** in the present Office Action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1, 3 and 4 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al (J. Immunol. [1992] 148(8):2462-2468; C17 on form PTO-1449 filed 12/23/04) in view of Kimberly et al (J. Clin. Invest. [1989] 84(3):962-970; C10 on form PTO-1449) and Emlen et al (J. Immunol. Meth. [1990] 132(1):91-101; C03 on form PTO-1449).

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It was previously stated: "Taylor teaches the production of bispecific heteropolymers comprising an antibody to complement receptor (CR1) on primate erythrocytes. Taylor specifically teaches the monoclonal antibody 1B4 [claim 2] as a part of the heteropolymer (page 2462, column 2 in particular). Taylor teaches conjugation of 1B4 via avidin/biotin linkage to a second antibody, which is directed to an antigen of interest. Taylor further teaches the usefulness of the heteropolymer for erythrocyte-mediated clearance immune complexes in a primate (squirrel monkey) subject (Abstract in particular).

Taylor does not teach heteropolymers of anti-CR1 antibodies with an antigen that is specifically recognized by a pathogenic antibody or autoantibody.

Kimberly teaches erythrocyte-mediated clearance of dsDNA/anti-dsDNA immune complexes (Abstract in particular). Kimberly further teaches that these immune complexes "are relevant to autoimmune disease," "have well characterized immunochemical properties" and their behavior has been studied in primates. Kimberly further teaches that the immune complexes fix complement efficiently, bind avidly to primate erythrocytes via CR1 and release slowly from human erythrocytes (page 967, column 1 in particular). Accordingly, Kimberly establishes the importance of dsDNA/anti-dsDNA complexes in autoimmunity, providing motivation for a person having ordinary skill in the art at the time the invention was made to identify methods of removing the pathogenic anti-dsDNA antibodies.

The teachings of Taylor and Kimberly do not specifically teach heteropolymers comprising anti-CR1 monoclonal antibodies and dsDNA.

Emlen teaches methods for biotinylating dsDNA in a manner suitable for attaching the biotinylated dsDNA to streptavidin. Emlen further teaches that the biotinylated dsDNA retains its immunogenicity (Abstract in particular). Accordingly, the artisan would reasonably expect that biotinylated dsDNA would be able to be bound by anti-dsDNA antibodies in the peripheral circulation of a subject having an autoimmune disease in which anti-dsDNA antibodies are a factor.

It would have been *prima facie* obvious to a person having ordinary skill in the art at the time the invention was made to combine the teachings in order to facilitate erythrocyte-mediated removal of anti-dsDNA antibodies from the peripheral blood of primates with an autoimmune disease such as systemic lupus erythematosus (SLE). One would have been motivated to combine the teachings with a reasonable expectation of success because Taylor teaches that the use of an anti-CR1 antibody such as 1B4 would be an effective way to facilitate erythrocyte-mediated clearance of immune complexes from primates, Kimberly teaches that dsDNA/anti-dsDNA immune complexes can be cleared from a primate via erythrocyte-mediated clearance and Emlen teaches that biotinylated dsDNA retains its ability to bind pathogenic anti-dsDNA antibodies from the blood of subjects with SLE. Therefore the artisan would have reasonably expected that replacing the biotinylated second antibody of the complex taught by Taylor with the biotinylated dsDNA of Emlen would create a complex comprising an anti-CR1 antibody and an antigen specific for an a target pathogenic antibody or autoantibody that is useful for facilitating erythrocyte-mediated removal of the target pathogenic antibody or autoantibody."

Applicant's arguments filed December 14, 2007 have been fully considered but they are not persuasive.

Applicant argues that the references cannot be combined because there is no suggestion in any of the references that they could be combined with any of the other references. Applicant asserts that Taylor requires that the Fc portion of the second antibody is present. However, applicant has not pointed out where in the teaching that this "requirement" is made, nor can such a requirement be found. The anti-CR1 antibody and the anti-pathogen antibody of the construct taught by Taylor are joined an avidin-biotin linker. When one skilled in the art looks at the teaching in its totality, the artisan would recognize that

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any molecule that is useful for the removal of a pathogenic molecule from a subject's body that can be attached to biotin can be linked to the anti-CR1 antibodies for enhanced clearance of the pathogenic molecule from the body. Kimberly teaches the pathogenicity of dsDNA/anti-dsDNA immune complexes in autoimmunity. Emlen teaches that dsDNA can be biotinylated and attached to streptavidin, but retains its immunogenicity to anti-dsDNA antibodies. Accordingly, the artisan taking these teachings in their totality would recognize that biotinylated dsDNA can be attached via an avidin or streptavidin bridge to biotinylated anti-CR1 antibodies in order to enhance the clearance of the pathogenic anti-dsDNA antibodies from the subject.

Conclusion

3. No claim is allowed.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

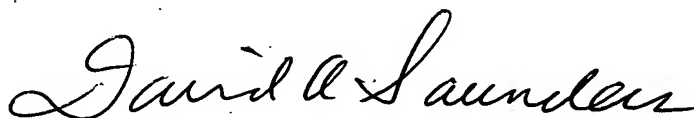
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Pierre VanderVegt whose telephone number is (571) 272-0852. The examiner can normally be reached on M-Th 6:30-4:00 and Alternate Fridays 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

F. Pierre VanderVegt, Ph.D. 
Patent Examiner
March 16, 2007



DAVID A. SAUNDERS
PRIMARY EXAMINER